

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER SEVEN
: :
CHRISTOPHER HOWARD PAIGE and : BANKRUPTCY NO.: 5-11-bk-05957-JJT
MICHELE ANNA PAIGE, :
: :
DEBTORS :
: :
LERNER MASTER FUND, LLC, : {**Nature of Proceeding**: Defendants'
: Motion to Dismiss Amended Complaint
PLAINTIFF : (Doc. #86)}
: :
vs. :
: :
CHRISTOPHER HOWARD PAIGE and :
MICHELE ANNA PAIGE, :
: :
DEFENDANTS : **ADVERSARY NO.: 5-12-ap-00067-JJT**

OPINION

After the Court ruling in regard to the Complaint of the Plaintiff, Lerner Master Fund, LLC, an Amended Complaint was filed by the Plaintiff attempting to address the deficiencies alluded to in the Opinion. That Amended Complaint generated another Motion to Dismiss filed by the Defendants, Doc. #86, arguing much of the same issues raised in the initial filings generated by the original Complaint. I will not revisit my disposition of Counts I, II, V, VI, and VIII, since their sufficiency has heretofore been found by Opinion issued April 1, 2013. Focusing on Counts III, IV, and VII, the Counts dismissed by the Court, I find that the shortcomings highlighted by the Court's Opinion have been addressed by the Amended Complaint.

In considering a motion to dismiss, the rule is that "once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations of the

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complaint.” *Phillips v. County of Allegheny*, 515 F.3d 224, 231 (3d Cir. 2008) citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 127 S.Ct. 1955, 167 L.Ed.2d 929 at 1969 (2007). “Factual allegations must be enough to raise a right to relief above the speculative level” *Twombly*, 127 S.Ct. at 1965.

In this regard, the Court will “accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.” *Phillips v. County of Allegheny*, 515 F.3d at 233 citing *Twombly*, 127 S.Ct. at 1969 n.8 and *Pinker v. Roche Holdings, Ltd.*, 292 F.3d 361, 374 n.7 (3d Cir. 2002).

Utilizing these standards, I find that the Amended Complaint states a claim which is supported by sufficient allegations in the Amended Complaint. The Motion to Dismiss is therefore denied.

The Defendants are directed to file an Answer to the Amended Complaint within twenty-one (21) days of the date of this Order.

My Order will follow.

By the Court,



John J. Thomas, Bankruptcy Judge
(CMS)

Date: March 31, 2015